

MONTANA LEGISLATIVE HISTORY

Chapter 359 19 89

Bill H _____ S 121

Original bill & history ✓ c

H. Committee on Judiciary

Hearing Date(s) Mar 18 ✓ c

Mar 23 ✓ c

_____ c

_____ c

Date Out Mar 23 ✓ c

S. Committee on Judiciary

Hearing Date(s) Jan 29 ✓ c

Jan 30 ✓ c

_____ c

_____ c

Jan 30 ✓ c

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

SENATE FINAL STATUS

SB 119 INTRODUCED BY WEEDING, HALLIGAN
EXEMPT ALL INSURANCE POLICIES FROM "PLAIN LANGUAGE
IN CONTRACTS ACT"

1/16	INTRODUCED		
1/16	REFERRED TO JUDICIARY		
1/23	HEARING		
1/24	COMMITTEE REPORT--BILL PASSED		
1/28	2ND READING PASSED	49	1
1/30	3RD READING PASSED	48	2
	TRANSMITTED TO HOUSE		
2/04	REFERRED TO JUDICIARY		
3/09	HEARING		
3/10	COMMITTEE REPORT--BILL CONCURRED		
3/13	2ND READING CONCURRED	94	0
3/14	3RD READING CONCURRED	90	6
	RETURNED TO SENATE		
3/19	SIGNED BY PRESIDENT		
3/20	SIGNED BY SPEAKER		
3/20	TRANSMITTED TO GOVERNOR		
3/24	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 185	EFFECTIVE DATE: 10/01/87	

SB 120 INTRODUCED BY REGAN, HIMSL
REQUIRE GROUP POLICY CHEMICAL DEPENDENCY CARE BY
APPROVED PERSON/FACILITY

1/16	INTRODUCED		
1/16	REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY		
1/30	HEARING		
2/09	COMMITTEE REPORT--BILL PASSED AS AMENDED		
2/13	2ND READING PASSED	50	0
2/16	3RD READING PASSED	50	0
	TRANSMITTED TO HOUSE		
2/18	REFERRED TO HUMAN SERVICES & AGING		
3/05	HEARING		
3/05	COMMITTEE REPORT--BILL CONCURRED		
3/07	2ND READING CONCURRED	82	6
3/09	3RD READING CONCURRED	91	6
	RETURNED TO SENATE		
3/11	SIGNED BY PRESIDENT		
3/12	SIGNED BY SPEAKER		
3/12	TRANSMITTED TO GOVERNOR		
3/16	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 98	EFFECTIVE DATE: 10/01/87	

SB 121 INTRODUCED BY BROWN, R., BISHOP, SWIFT, ET AL.
FIREARMS LIABILITY CRITERIA

1/16	INTRODUCED		
1/16	REFERRED TO JUDICIARY		
1/29	HEARING		
1/31	COMMITTEE REPORT--BILL PASSED AS AMENDED		
2/04	2ND READING PASSED	50	0
2/06	3RD READING PASSED	47	1
	TRANSMITTED TO HOUSE		
2/11	REFERRED TO JUDICIARY		

SENATE FINAL STATUS

3/18	HEARING		
3/23	COMMITTEE REPORT--BILL CONCURRED		
3/27	2ND READING CONCURRED	82	2
3/28	3RD READING CONCURRED	91	2

RETURNED TO SENATE

4/01	SIGNED BY PRESIDENT		
4/02	SIGNED BY SPEAKER		
4/02	TRANSMITTED TO GOVERNOR		
4/07	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 359	EFFECTIVE DATE:	10/01/87

SB 122 INTRODUCED BY CRIPPEN, BROWN, R., MAZUREK, ET AL.
PROCEDURE FOR APPEAL TO STATE TAX APPEAL BOARD --
ALLOW HEARING OFFICER
BY REQUEST OF REVENUE OVERSIGHT COMMITTEE

1/16	INTRODUCED		
1/16	REFERRED TO TAXATION		
1/16	FISCAL NOTE REQUESTED		
1/23	HEARING		
1/23	COMMITTEE REPORT--BILL PASSED AS AMENDED		
1/23	FISCAL NOTE RECEIVED		
	NOT SIGNED BY SPONSOR		
1/27	2ND READING PASSED	50	0
1/29	3RD READING PASSED	50	0

TRANSMITTED TO HOUSE

2/04	REFERRED TO TAXATION		
2/17	HEARING		
2/23	COMMITTEE REPORT--BILL CONCURRED		
3/03	2ND READING CONCURRED	86	11
3/03	REFERRED TO APPROPRIATIONS		
3/23	HEARING		
3/27	COMMITTEE REPORT--BILL CONCURRED AS AMENDED		
3/28	2ND READING CONCURRED AS AMENDED	78	0
3/30	3RD READING CONCURRED	98	0

RETURNED TO SENATE WITH AMENDMENTS

4/03	2ND READING AMENDMENTS CONCURRED	50	0
4/04	3RD READING AMENDMENTS CONCURRED	48	1
4/08	SIGNED BY PRESIDENT		
4/10	SIGNED BY SPEAKER		

4/10	TRANSMITTED TO GOVERNOR		
4/15	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 471	EFFECTIVE DATE:	4/15/87

SB 123 INTRODUCED BY HARDING, VAUGHN
REGISTER OF CANDIDATES OPTIONAL

1/16	INTRODUCED		
1/16	REFERRED TO STATE ADMINISTRATION		
1/19	HEARING		
1/20	COMMITTEE REPORT--BILL PASSED		
1/23	2ND READING PASSED	48	0
1/26	3RD READING PASSED	50	0

TRANSMITTED TO HOUSE

2/04	REFERRED TO STATE ADMINISTRATION		
3/05	HEARING		
3/05	COMMITTEE REPORT--BILL CONCURRED		
3/07	2ND READING CONCURRED	88	0

SENATE BILL NO. 121

INTRODUCED BY B. BROWN, BISHOP, SWIFT, MEYER, KEATING,
BECK, HIMSL, JERGSON, SEVERSON, LYNCH, E. SMITH,
YELLOWTAIL, GALT, VAN VALKENBURG, CRIPPEN, AKLESTAD,
WALKER, NEUMAN, BLAYLOCK, STORY, BRANDEWIE, THAYER,
RASMUSSEN, GILBERT, HARP, GRADY, LYBECK, THOFT, FARRELL,
HAGER, HARDING, MENKE, THOMAS, MOORE, MCLANE

IN THE SENATE

JANUARY 16, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
JANUARY 31, 1987	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 2, 1987	PRINTING REPORT.
FEBRUARY 4, 1987	SECOND READING, DO PASS.
FEBRUARY 5, 1987	ENGROSSING REPORT.
FEBRUARY 6, 1987	THIRD READING, PASSED. AYES, 47; NOES, 1.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 11, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
MARCH 23, 1987	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 27, 1987	SECOND READING, CONCURRED IN.
MARCH 28, 1987	THIRD READING, CONCURRED IN. AYES, 91; NOES, 2.
	RETURNED TO SENATE.

IN THE SENATE

MARCH 30, 1987

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

1 *Senate* BILL NO. *131* *Mayer & Stoy*
 2 INTRODUCED BY *Bob Brown* *Al Bishop* *Smith*
 3 *Don Burt* *Jim Jorgeson* *Saverson* *Lynch* *Don*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING CRITERIA
 5 DETERMINING WHEN FIREARMS OR AMMUNITION MAY NOT BE *AKLESTAD*
 6 CONSIDERED DEFECTIVE IN DESIGN IN PRODUCTS LIABILITY *Stoy*
 7 ACTIONS; AND PROVIDING EXCEPTIONS." *Stoy*
 8 *Gilbert* *Stoy* *Stoy* *Stoy* *Stoy*
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: *Stoy*

1 selection of design alternatives.

-End-

10 Section 1. Products liability -- defectiveness of
 11 firearms or ammunition. (1) In a products liability action,
 12 no firearm or ammunition may be considered defective in
 13 design on the basis that the benefits of the product do not
 14 outweigh the risk of injury posed by its potential to cause
 15 serious injury, damage, or death when discharged.

16 (2) For purposes of this section:

17 (a) the potential of a firearm or ammunition to cause
 18 serious injury, damage, or death when discharged does not
 19 make the product defective in design; and

20 (b) injuries or damages resulting from the discharge
 21 of a firearm or ammunition are not proximately caused by its
 22 potential to cause serious injury, damage, or death but are
 23 proximately caused by the actual discharge of the product.

24 (3) The provisions of this section do not affect a
 25 products liability cause of action based upon the improper

CHAIRMAN--SEN. JOE MAZUREK
NORMAL SCHEDULE==> SITE: ROOM 325

DAYS: MON THRU FRI

TIME: 10:00 A.M.

SECRETARY-MARY HUBER

BILL NO	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
SB0119	1/16	1/23		DO PASS		1/23
WEEDING, CECIL			EXEMPT ALL INSURANCE POLICIES FROM 'PLAIN LANGUAGE IN CONTRACTS ACT'			
SB0121	1/16	1/29		PASS AS AMENDED		1/30
BROWN, ROBERT J.			FIREARMS LIABILITY CRITERIA			
SB0134	1/19	1/26		DO PASS		1/26
BECK, TOM			CONVEYING A DANGEROUS DRUG TO A PRISONER; SENTENCE			
SB0137	1/19	1/26		PASS AS AMENDED	off table 2/18 tabled 2/19 tabled 1/26	2/20
WEEDING, CECIL			FEE ADDED TO FINES TO SUPPORT LAW ENFORCEMENT ACADEMY			
SB0139	2/03	2/18		PASS AS AMENDED		2/19
SMITH, ED B.			RESTRICT SNOWMOBILE AREA OPERATORS' LIABILITY			
SB0144	1/19	1/27		PASS AS AMENDED		1/27
BLAYLOCK, CHET			REVIEW OF SENTENCE OF A MENTALLY ILL OFFENDER CERTIFIED AS CURED			
SB0152	1/20	1/27		ADVERSE REPORT	JUDICIARY	2/3
WALKER, MIKE			EXTEND TIME FOR FILING COMPLAINT WITH HUMAN RIGHTS COMMISSION			
SB0152	2/06			PASS AS AMENDED	Referred back 2/16	2/3 2/16
WALKER, MIKE			EXTEND TIME FOR FILING COMPLAINT WITH HUMAN RIGHTS COMMISSION			
SB0160	1/20	1/29		PASS AS AMENDED		2/3
MAZUREK, JOSEPH P.			REVISE GENERAL LAWS ON STATUTES OF LIMITATION			
SB0161	1/20	1/30		DO PASS		2/3
MAZUREK, JOSEPH P.			REPEAL SUNSET PROVISION OF TWO SUPREME COURT ASSOCIATE JUSTICE POSITIONS			
SB0164	1/21	1/30		DO PASS		2/4
GAGE, DELWYN			REIMBURSEMENT TO DEPARTMENT OF JUSTICE FOR EMPLOYEE TIME SPENT ON SUBPOENAS			

7

MONTANA STATE SENATE
JUDICIARY COMMITTEE
MINUTES OF THE MEETING

January 29, 1987

The seventeenth meeting of the Senate Judiciary Committee was called to order at 10:00 a.m. on January 29, 1987 by Chairman Joe Mazurek in Room 325 of the Capitol Building.

ROLL CALL: All committee members were present.

CONSIDERATION OF SB 121: Senator Bob Brown of Whitefish introduced SB 121 by saying the bill's explanation was on the lines 16 through 23 on page 1 of the bill in the white copy. He said the need for this legislation came from cases outside of the state, which resulted on the findings of liability on the part of manufacturers or importers of firearms because crimes were committed with the firearms. He told the committee the logic of the bill is no liability should result from a firearm or ammunition doing what they were manufactured to do. He stated if only the products are defective and cause an injury because of their defect, should there be any liability.

PROPONENT: Brian Judy, National Rifle Association, (see witness sheet) spoke in favor of SB 121 because no area is threaten more than the private use and ownership of firearms by law obeying citizens. He explained that because gun control prohibitionists have been unsuccessful in getting legislation through for more gun control, their latest tactic is to get gun bans through the courts. He said in a number of states anti-gun lawyers have filed law suits against hand gun manufacturers alleging that the hand guns are unreasonably dangerous and by consequence, the manufacturers of these guns should be held responsible if their product has been used in a crime. He said there has been approximately 25 to 30 of these cases filed to date. He stated the bases for these defectless product liability cases is an assumption that traditional product liability can be extended to include the notion that a hand gun is defective in design because it could potentially be used to cause injury or death. He told the committee that in an attempt to prove that the design of a hand gun is the approximate cause of injury or death, a plaintiff's counsel will rely upon the testimony from criminologists and sociologists, who will present data on the numbers of injuries and deaths resulting from the use of hand guns and this is the same data that gun control advocates will use in their attempts to get legislatures to act in gun control legislation. He stated that the motive of the gun control advocates' counsel is to acheive in the courts what they have failed in the legislatures and this over attempt to judicially in act gun control legislation has caused courts to dispose of these cases; however, in October of 1985, the case of Kelly vs R.G. Industries, 497-A

to G 1143 (MD 1985), the Maryland Court of Appeals ruled that law suits by crime victims could be brought against the manufacturer of a gun called "Saturday Night Special". He said their decision was based on a theory that hand guns are defective since they are primarily used to commit crimes. He said the Kelly case has been applauded by anti-gun organizations; the spokesman for an anti-firearm group is the National Coalition to Ban Hand Guns. He said this group can now fight a two front battle for hand gun control. He said they are predicting numerous cases to be coming up, and these courts will be looking at the Maryland decision for direction. The decision of the Kelly case has bankrupted the R.G. Industries, he said. He stated the National Rifle Association would like to nip this "twisted tort line" in the "bud" and protect the shooting sports by seeing defectless product liability passed in every state legislature in the country. He said Idaho, California, Nevada are three western states that have enacted this law, in fact California and Idaho have the same language that you are considering today. He pointed out that SB 121 provides that it is not the potential of firearms to cause injury, damage or death when discharged, and SB 121 would also assure that neither firearm or ammunition is to be deemed "defective in design" on the arbitrary bases that the benefits of the product do not outweigh the risk. He said SB 121 will not effect product liability action based on design flaws, manufacturing defects, or negligence on the part of the producer. He state one gun manufacturer is out of business and many more are on their way if something is not done about this liability problem.

Bill Bigelow from Big Timber, representing the Montana Rifle and Pistol Association and is the field representative for Montana with the National Rifle Association, spoke in favor of SB 121 because the Rifle and Pistol Association's main duty is to train young shooters, so they can go on to the Olympic shooting sports, so if firearms are no longer available to sporting clubs, then efforts to continue Olympic shooting events would be hindered.

Ralph A. Knauss of Clancy, representing himself handed the committee written testimony on his support for SB 121 (see Exhibit 1, written testimony).

Alfred M. (Bud) Elwell, Weapons Collectors Society of Montana, stated that in the last 20 years the Weapons Collectors Society has brought many collections to communities, and he felt a firearm is nothing more than an inanimated object capable of nothing more than the will of the individual that is using it and it is his responsibility for a defect such as what we are talking about here. Mr. Elwell felt it was a waste of the court's time in these cases.

OPPONENTS: Karl Englund, Montana Trial Lawyers Association, opposed SB 161. He first explained the concept of product liability by stating it

is based upon the premise that a manufacture is liable when he sells products in a defective condition reasonably dangerous to the public; it is called strict liability because the focus is on the product because it is the product that causes the injury and the focus is not upon the conduct of the manufacturer. He said in order to prove a product liability case, a person must show a product that is defect, defective and unreasonably dangerous. He pointed out there are three ways to find a defect in a product: 1) the manufacturing process, 2) the designing, 3) the failure of warning or adequately instructing: now a manufacturing defect means that the product doesn't perform as designed, so an auto can be designed safe proof with quality screws, but the manufacture did not use quality screws but cheap ones, and it caused an accident. In a gun case it is the same type of deal, he said. He explained a "failure to warn case" means one has good design, the product is not unreasonably dangerous, and it is manufactured properly, but the manufacturer has failed to provide a necessary warning, such as a lawn mower sign saying "Do not stick your hand under the machine while it is running." He explained in a design case the problem is in the design of the product. He said a product that is designed reasonably dangerous and its risks far out way its benefits is a design case that is not used very much. He felt SB 121's purpose is to present this last kind of mechanism to show design defects in gun cases. He asked the committee what gun could he convince a Montana jury with that was so dangerous that its risks far out way its benefits. You could not use collectable guns or guns used in the line of duty by a police officer, or a sport gun, he stated. He commented that "Saturday Night Specials could be the one gun you could use because they are cheap, concealable, dangerous, and can't be imported in the U.S. under federal law. Mr. Englund said there are not guns like this manufactured in Montana or by representable gun manufactures and they have never been the subject of a product liability action in this state. He felt the bill says the Montana citizen who is the victim of a mugging or shooting by someone using a gun that has no social value and its risks out weigh any benefits has no chance to convince a Montana jury that the manufacture of this type of gun has some responsibility for his injury. He stated the kind of cases tried in Montana are "design defect cases", which this bill does not touch, and the only benefit this bill has is to protect manufacturers of these dangerous products like the "Saturday Night Special".

DISCUSSION ON SB 121: Senator Pinsoneault asked about the Kelly case. Mr. Judy responded that Kelly Industries is the importer of firearms and the gun in question was a foreign made firearm approved by the Bureau of Alcohol, Tobacco and Firearms. He said the Kelly case concluded that cases could be brought against hand gun manufacturers or importers of guns for an injury of a person involved with one of their guns. He said the "Saturday Night Special"(SNS) are defined as a low cost, easily concealable, short barrel and light weight, but he thought this is a defintion of any hand gun and the "SNS" is a hypothetical term that was

made up. He said the firearm in the Kelly case was a high quality and expensive gun. He asked what the difference is between a low cost gun and a high cost gun when they both are designed for the same reason and they can inflict the same injury and it should not be the firearm that is liable but the individual's actions. He pointed out again many manufacturers will go out of business because of the present statute.

Senator Yellowtail asked Mr. Englund to give an example of a "Saturday Night Special". Mr. Englund suggested a cheap, light weight, easily concealable weapon that has no value to society in areas of hunting, sporting, collecting or police work. Senator Yellowtail inquired again to describe a hand gun that fits a "SNS" mold. Mr. Englund echoed his same statement as before, but did not know of a model or kind of gun. Senator Yellowtail asked if they made any plastic guns that were called "SNS". Mr. Englund said a gun made of plastic must be used to get through metal detectors, but did not know of a model. Senator Yellowtail inquired if there is a federal law that prohibits the importation of these kinds of weapons. Mr. Englund replied that the Gun Control Act of 1968 prohibited the importation "SNS", but the act contained big loop holes which allowed the parts to be imported into the U.S.. Senator Yellowtail asked Mr. Judy to respond to this. Mr. Judy told the committee that for a firearm to enter the U.S.; it must be approved by the Bureau of Alcohol, Tobacco, and Firearms. He said there is no such thing as a plastic firearm and we are looking at expensive guns being named "Saturday Night Specials" because of the definition of a "Saturday Night Special". He pointed out a price of a gun is a ridiculous arbitrary factor to be defining as a "Saturday Night Special" because there many good quality firearms that are sold for only \$100 or less. Any gun that is less than \$200 is going to be dubbed a "SNS", he said, and what you are doing is taking away the ability for many people to purchase a quality, but cheaper firearm to use for self defense. He said you better look at the quality, because the size, weight, and price are meaningless. He stated he agreed that if an injury has been caused by design flaws, manufacturing defects, or has been produce with any negligence, then the injured person has the right to recover; but if the gun is a good one then the manufacturer can't be liable. He felt it is just a way, now, to get manufacturers out of business and bring in strict gun control. Senator Yellowtail asked what standards the Bureau of Alcohol, Tobacco and Firearms uses when allowing guns in to the country. Mr. Judy was not sure, except the guns probably have to fit into the standards of this country's products.

Senator Crippen asked Karl Englund to give a defintion of a gun that falls outside the definition of a "Saturday Night Special". He state that under this one theory of product liability if a product, because of its design, has no social value and carries high, high risks, then there is some product liability attached to that. He said when he use the

words "Saturday Night Special", he uses a gun within that definition. Senator Crippen stated Mr. Englund was not answering the question. Mr. Englund said he was trying. Senator Crippen asked again what gun falls outside the definition of a "SNS". Mr. Englund replied a gun that has some social value, like hunting, protecting, collecting or used for police work. Senator Crippen asked who's protection is it used for. Mr. Englund replied the gun owner. Senator Crippen inquired how you can, using the term protection, go further and define within that term one gun that this and gun that isn't. Mr. Englund responded the bill doesn't set any standards; it just says if a person can make that argument and convince a jury in Montana that they should be allowed to do that. He said there are no examples because there has not been any cases in Montana. Senator Crippen commented isn't that the point that it is very difficult to make a standard as the way you define it. Mr. Englund replied the standard is set by the product liability action and by the consensus of the community and the jury and if the jury can be convinced that there is no social benefit; that the risks far out way the values that there is; then why should a hand gun be any different than any other kind of product.

Senator Pinsoneault felt Mr. Englund has substituted some social theory that has nothing to do with the others. Mr. Englund said he is relaying to the committee in terms of showing a "design defect" where there are two ways that it can be done; one way is to show that there is an improper design and the other way is to show that the entire product, because of its design, is unreasonably dangerous and then that is where you get into the benefits/risks analysis. He said that is an excepted way to show a design defect in a product liability case.

Senator Mazurek asked about subparagraph (3) of the bill and what happens to the negligence or a defect in the manufactured process itself. Mr. Judy stated the bill doesn't address these things because it goes under product liability. Senator Mazurek asked if he would object to an amendment which mentions the other types of defects a manufacture could be accountable for. Mr. Judy said that would be fine, but if these other defects are involved, then the gun is like any other product; I am concerned about the design, because the 30 cases involve the social value idea and; thus, the gun is dangerous, and design is defective because of that. Mr. Englund pointed out that the provision of this section does not effect product liability cause of action based upon design flaws, negligence or defects in manufacturing, because improper selection of design alternatives is only one of the mechanisms which you can prove improper design, even assuming you don't have this cause of action, which this bill is addressed to.

Senator Bishop asked Mr. Bigelow about his opinion on this lack of social value on a "Saturday Night Special". Mr. Bigelow replied it is very difficult to find social value in self defense. He said according

to Mr. Englund if you saved yourself or someone else with a \$25 gun, it means the incident had no social value. He commented he did not agree with that because that \$25 gun saved a life.

Senator Brown closed by stating if they did not cost very much money or if they were easily concealed or light weight, those things make them, by definition, a dangerous gun and the risks outweigh the benefits, that seems pretty obvious to be a "back door approach" to banning hand guns. He said if that is not public policy we want to let stand then I think this is necessary and all it does is say if guns are manufactured to the law, they should not be deemed defective for doing what they were manufactured to do.

CONSIDERATION OF SB 181: Senator Van Valkenburg of Missoula introduced SB 181, which was requested by the Magistrate's Association. He said the bill requires suspension of a driver's license for failure to appear to pay a fine, costs, or restitution after conviction of certain offenses, which are listed in the bill. He said the reason for the bill is many law enforcement people allow violators to pay fines in installment periods and the people don't pay at these times. He felt this bill will give them an incentive to pay the fine.

PROPOSERS: Jim Haynes of the Montana Magistrate's Association spoke in favor of SB 181. He handed out amendments he and the Magistrate's Association worked on for SB 181 (see Exhibit 2). He explained the amendment in subsection (2) of the bill, which posts the set bond amount, address an issue raised by Representative John Mercer, which clarifies one could not give the bond amount to the policeman when stopped, and still be subject to this bill. He said subsection (3) will make a person pay \$50 reinstatement fee to get their license back. He stated many people don't have the money to pay the fines, so you can't throw them in jail, but maybe this act will make these people more aware of what consequence that could happen to them.

Judge Neil Travis of Park County stated that he introduced this bill to the Magistrate's Association. He said certain people will not pay the installments. He said a person can leave for Wolf Point without paying; a warrant is issued for him and the sheriff has to get him, which is expensive for the city and county. He said the person will probably not pay after all this work anyway.

Judge Gary Dupuis of East Helena spoke in favor of SB 181 because many are repeated offenders who can't pay and know they can get away with it. He wishes to see juveniles included in this bill.

DISCUSSION ON SB 181: Senator Mazurek asked Senator Van Valkenburg if he had looked at the amendments. Senator Van Valkenburg did look at them and he said he had no objections to the amendments, and he said there is

Judiciary

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date Jan. 29

NAME	PRESENT	ABSENT	EXCUSED
<u>Senator Joe Mazurek, Chairman</u>	X		
<u>Senator Bruce Crippen, Vice Chairman</u>	X		
<u>Senator Tom Beck</u>	X		
<u>Senator Al Bishop</u>	X		
<u>Senator Chet Blaylock</u>	X		
<u>Senator Bob Brown</u>	X		
<u>Senator Jack Galt</u>	X		
<u>Senator Mike Halligan</u>	X		
<u>Senator Dick Pinsoneault</u>	X		
<u>Senator Bill Yellowtail</u>	X		

Each day attach to minutes.

RALPH A. KNAUSS
P. O. BOX 66
CLANCY, MT. 59634
PH. (406) 933 5602
January 29, 1987

Honorable Chairman and Members of the Senate Judiciary Committee
Montana State Legislature
Helena, Montana

Gentlemen:

I am in favor of Senate Bill 121, as introduced by Senator Brown and many co-sponsors.

It is unfortunate that the people and organizations that believe in the ownership of firearms for legitimate purposes have to keep coming back to the legislature asking for new legislation, but the ingenuity of the anti-gun zealots is not waning.

As I understand the situation, since the zealots have not been able to promote their views by legislation or voter initiative they are bringing civil actions against firearms manufacturers who have produced firearms that have been used in the commission of crimes. They are in effect trying to create, through the courts, a climate that would make it economically unfeasible to manufacture firearms.

In my opinion, the anti-gun people are attempting to have the courts create law that will enforce their point of view without legislative or administrative review. We all know that this is not the way our democratic process is supposed to work.

I believe that this legislation will preclude such an occurrence from happening in Montana. However, it would not stop anyone from recovering damages in the event of faulty design or manufacture.

SINCERELY YOURS,

Ralph A. Knauss

RALPH A. KNAUSS

SENATE JUDICIARY

EXHIBIT NO. 1

DATE Jan. 29, 1987

BILL NO. SB 121

BRIAN Judy

1/29

555 CAPITOL MALL #455 SACRAMENTO, CA

916/446-2455

NATL. Rifle Assn.

SB 121



OPPOSE?

COMMENTS :

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Bill Bigelow DATE: 1/29/87

ADDRESS: Box 1208, Big Timber, MT 59011

PHONE: 932-4480

REPRESENTING WHOM? NRA / MT. Rifle & Pistol Assoc.

APPEARING ON WHICH PROPOSAL: SB 121

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: Support this bill as submitted
by Sen. Broder

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Alfred M (Bud) Elwell DATE: 1-29-87

ADDRESS: Box 77 B. S.H. Clancy

PHONE: 933-8540

REPRESENTING WHOM? Weapons Collectors Society of Montana

APPEARING ON WHICH PROPOSAL: SB 121

DO YOU: SUPPORT? 2 AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

MONTANA STATE SENATE
JUDICIARY COMMITTEE
MINUTES OF THE MEETING

January 30, 1987

The eighteenth meeting of the Senate Judiciary Committee was called to order at 10:00 a.m. on January 30, 1987, by Chairman Joe Mazurek in Room 402 of the state Capitol.

ROLL CALL: All committee members were present.

CONSIDERATION OF SENATE BILL 164: Senator Gage, District 5, introduced SB 164, which was requested by the Department of Justice. He said trials do not pay state employees when they are subpoenaed to appear in a trial, and because a trial does not pay these people, the department feels there is some abuse with putting them on the bottom of the ladder as far as using their testimony. He said this bill provides billing the party that subpoenaed the department employee, so that the department will be reimbursed for the employee's time spent on the subpoena.

PROPOSERS: Kim Kradolfer, Assistant Attorney General of the Department of Justice, supported the bill because there is a similar statute that will be repealed by this bill (Section 44-1-502, MCA), that is very handy to highway patrolmen, and this just adds department employees to this. The bill also includes criminal matters, so it will cover the forensic scientists, fire marshalls, and the employees of the identification bureau, all of which are called quite often in criminal matters. She said the criminal trial using forensic scientists is where abuses are occurring. She said it is not unusual for a forensic scientist to sit for four days to testify for 45 minutes. She felt if we have this bill in effect, maybe the courts will be a little more considerate of our people and their time.

OPPOSERS: There were no opponents.

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and school eliminates him from all extra-curricular activities because he broke training. He felt it was a bit much for a teenager to handle.

Senator Mazurek said one can't stop the school from punishing the student because most extra-curricular events in high school must have a contract signed by the student stating punishments.

Jeff Lynch, Carroll College Intern for Senator Mazurek, stated when he went to Great Falls High, the police would give a list of names of who was arrested for illegal drinking, to the school.

Senator Halligan felt the committee should go along with the amendments, but the disclosure section should be tightened up some.

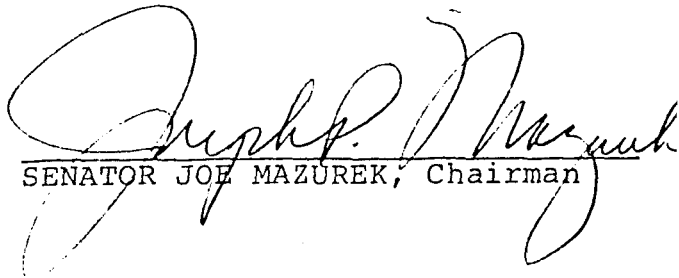
Senator Brown wanted to MOVE to put the bill on the TABLE because the committee had taken some executive action before on the bill. On January 28th, Senator Halligan had moved the bill DO PASS AS AMENDED, but it was not voted on. Senator Brown had moved to reconsider committee action on Senate Bill 189 on January 28. The motion CARRIED.

Senator Blaylock moved to table the bill. The motion CARRIED with Senator Galt voting no. (The amendments on the 28th of January gave school officials access to records of the child). (See Exhibit 4)

ACTION ON SENATE BILL 121: The committee discussed the concern over the limiting product liability in the bill. Senator Brown moved the amendment on the Standing Committee Report. (Exhibit 5) The motion carried.

Senator Brown moved the Senate Bill 121 DO PASS AS AMENDED. The motion CARRIED with Senators Yellowtail and Blaylock voting no.

ADJOURNMENT: The committee adjourned at 12:10 p.m.


SENATOR JOE MAZUREK, Chairman

mh

STANDING COMMITTEE REPORT

January 30

19 87

MR. PRESIDENT

We, your committee on SENATE JUDICIARY

having had under consideration SENATE BILL No. 121

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Firearms liability criteria.

Respectfully report as follows: That SENATE BILL No. 121

BE AMENDED AS FOLLOWS:

1. Page 1, line 10.

Following: "liability --"

Strike: "defectiveness"

Insert: "defect insign"

AND AS AMENDED

DO PASS

~~RECOMMEND~~
DO NOT PASS

SENATE JUDICIARY

EXHIBIT NO. 5

DATE 1-30-87

BILL NO. S.B. 121

Senator Mazurek

Chairman.

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ROLL CALL

Judiciary

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date Jan. 30th

NAME	PRESENT	ABSENT	EXCUSED
<u>Senator Joe Mazurek, Chairman</u>	X		
<u>Senator Bruce Crippen, Vice Chairman</u>	X		
<u>Senator Tom Beck</u>	X		
<u>Senator Al Bishop</u>	X		
<u>Senator Chet Blaylock</u>	X		
<u>Senator Bob Brown</u>	X		
<u>Senator Jack Galt</u>	X		
<u>Senator Mike Halligan</u>	X		
<u>Senator Dick Pinsoneault</u>	X		
<u>Senator Bill Yellowtail</u>	X		

Each day attach to minutes.

STATUS SHEET

50th LEGISLATIVE SESSION

JUDICIARY

COMMITTEE

SENATE BILL NUMBER	ENTERED COM. DATE	DATE CON- SIDERED	OUT OF COM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMENDED DATE	DO NOT PASS AS AMENDED DATE	BE CON- CURRED IN DATE	BE NOT CON- CURRED IN DATE	BE CON- CURRED IN AMENDED DATE	BE NOT CONCURRED IN AS AMENDED DATE
102		3/6/87									
104		3/12/87						3/13/87			
108		3/12/87							3/17/87		
112		3/5/87	3/5/87					3/5/87			
114		3/12/87						3/17/87			
119		3/9/87						3/10/87			
121		3/16/87						3/23/87			
134		3/6/87	3/6/87					3/6/87			
139		²⁰ 3/12/87	3/23/87							3/26/87	
144		3/4/87	3/5/87							3/5/87	
152		3/13/87						3/23/87			
160		3/13/87								3/23/87	
164		3/13/87						3/23/87			
173		3/13/87	tabled 3/23/87						reconcidered 3/27/87		

use a separate sheet for Senate Bills, House Bills, and Resolutions.

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MINUTES OF THE MEETING
JUDICIARY COMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVE

March 18, 1987

The meeting of the Judiciary Committee was called to order by Chairman Earl Lory on March 18, 1987, at 8:00 a.m. in Room 312 D of the State Capitol.

ROLL CALL: All members were present with the exception of Rep. Grady and Daily who were excused.

EXECUTIVE SESSION:

ACTION ON SENATE BILL NO. 261:

Rep. Cobb moved that SB 261 BE CONCURRED IN. Rep. Hannah moved that SB 261 be amended. He moved that the title be amended, striking "a person 21 years of age or older" and inserting "an adult", and amending page 2, line 20 with the same language. Rep. Darko stated this amendment will not weakened the bill. Question was called and a voice vote was taken. The motion CARRIED unanimously. (See Amendments Attached). Rep. Giacometto proposed to delete 1000 feet. Rep. Darko pointed out that there is too much drug dealing going on near the school and she felt this should be left in. Rep. Brown stated Montana does have a problem with drugs and the more the state grows the larger the problem will get. He said, this kind of statute will have a big impact and this bill should be left alone. Rep. Mercer moved to amend on page 2, line 22-24, striking the language ", which" on line 22 through "school," on line 24. Question was called and a voice vote was taken. The motion CARRIED unanimously. (See Amendments Attached).

Rep. Miles pointed out she disagrees with the mandatory prison sentence of a minimum 4-20 years and there will be a fiscal impact on the prison system. She prefers to see a traditional type of penalty clause. Rep. Eudaily requested that section 2 be clarified. Rep. Mercer asked that Mr. MacMaster make a suggestion in regards to this. He stated that on Page 1, lines 20-23, it says that the person shall be imprisoned and fined and it does not refer to the language "or both". On page 2, lines 3-5, it says, shall be imprisoned and fined, and the same thing appears on lines 7-9. The words "or both" are added into the section in the amendment. This wording does not add anything to the bill. He suggested the words be deleted on page 3, lines 9-10, page 3, lines 17-22. Rep. Eudaily moved that this deletion should take place. Question was called and a voice vote was

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Administration, DOT (Exhibit H). He pointed out that one of the underlined reasons for Federal regulations is to ensure uniformity within the states with regards to specific areas of the law. An amendment was proposed by Mr. Dearden on line 19 of the first page with regard to the exceptions listed. He requested that the word "Railroads" be inserted after the word "in". He further pointed out that this is not strictly a railroad argument, this argument is for any industry that is regulated by the Federal government, which would include airlines and airline pilots.

QUESTIONS (OR DISCUSSION) ON SENATE BILL NO. 338: Rep. Giacometto asked Mr. Ungar about his comments on the committee taking out the language "illegal" on page 2, so that alcohol and other types of drugs could be covered. Mr. Ungar commented the bill is addressed to illegal drug use and to expand on this could be seen as a conflict between the basic structure of our society that makes a distinction between legal and illegal use of substances.

Senator Boylan closed the hearing on SB 338.

SENATE BILL NO. 121: Senator B. Brown, District No. 2, stated that this is an act establishing criteria determining when firearms or ammunition may not be considered defective in design in products liability actions and providing exceptions. In a products liability action, no firearm or ammunition may be considered defective in design on the basis that the benefits of the product do not outweigh the risk of injury posed by its potential to cause serious injury, damage, or death when discharged. The provisions of this section do not affect a products liability cause of action based upon the improper selection of design alternatives.

PROPOSERS: BRIAN JUDY, NRA legislative Liaison for the Northwest Region and a life member of the National Rifle Association, stated that product liability is an issue of growing concern in a number of industries and recreational activities, but no area is threatened more than the ownership and use of firearms by law-abiding citizens. SB 121 would assure that neither firearms nor ammunition could be deemed defective in design on the basis that the benefits of the product do not outweigh the potential danger. It will in no way, however, affect product liability actions based upon improper design, manufacturing defects, nor negligence on the part of the provider. He submitted written testimony (Exhibit A) and urged support for this legislation.

ROBERT VANDERVERE, stated this is an excellent bill.

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ALFRED M. ELWELL, Montana Weapons Coalition, commented that he supports the legislation one hundred percent.

REP. JOHN MERCER, went on record in support of this bill.

OPPONENTS: BILL ROSSBACH, MTLA, (See Visitors' Register Attached).

QUESTIONS (OR DISCUSSION) ON SENATE BILL NO. 121: Rep. Miles asked Senator Brown about where design defects come into play. He explained that it gets into the reasonable manned area, if it presents a hazard in a typical situation and a manufacturer could get nailed for a design problem.

Rep. Eudaily asked Mr. Judy about subsection 3 and wondered what improper design means. He stated it goes back into the manufacturing process and if the safety of the firearm is of poor nature and it does not work effectively but the trigger could still be pulled while the safety was on, that is certainly a cause for action.

Senator Brown closed the hearing on SB 121 by stating that this bill says the gun is defectless and there should not be any liability. The bill does not protect an illegal firearm, or a defective firearm. This bill has been modeled after legislation in effect in other states.

SENATE BILL NO. 363: Senator Jacobson, District No. 36, stated that this bill established the minimum amount that must be deducted from an obligor's income under the child support income deduction act of 1981. She pointed out that in most cases where a provider must deduct 50% from his earnings for child support payments he or she will simply quit the job rather than pay the child support. This bill establishes a minimum of 25% so that a judge will have flexibility in setting the deduction between 25 and 50 percent to avoid that problem of feeling it is more beneficial to just quit their job. This is simply a matter that something is better than nothing.

THERE WERE NO PROPONENTS, OPPONENTS OR QUESTIONS.

Senator Jacobson closed the hearing on SB 363.

SENATE BILL NO. 241: Senator Keating, District No. 44, pointed out that this bill is a drug forfeiture bill and deals with the forfeiture of property that is legal property that may be obtained in a drug bust along with illegal property, that is the drugs itself. He stated at the present time the Federal Government can take onto itself that property belonging to someone who has broken the law and convert it into cash and put it into their account. At

DAILY ROLL CALL
JUDICIARY COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date March 18, 1987

NAME	PRESENT	ABSENT	EXCUSED
JOHN MERCER (R)	✓		
LEO GIACOMETTO (R)	✓		
BUDD GOULD (R)	✓		
AL MEYERS (R)	✓		
JOHN COBB (R)	✓		
ED GRADY (R)		✓	✓
PAUL RAPP-SVRCEK (D)	✓		
VERNON KELLER (R)	✓		
RALPH EUDAILY (R)	✓		
TOM BULGER (D)	✓		
JOAN MILES (D)	✓		
FRITZ DAILY (D)		✓	✓
TOM HANNAH (R)	✓		
BILL STRIZICH (D)	✓		
PAULA DARKO (D)	✓		
KELLY ADDY (D)	✓		
DAVE BROWN (D)	✓		
EARL LORY (R)	✓		

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3-18-87

SB# = 121

TESTIMONY FOR H.B. 121

DEFECTLESS PRODUCT LIABILITY LEGISLATION

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SUBMITTED BY BRIAN A. JUDY, NRA NW STATE LIAISON

MY NAME IS BRIAN JUDY. I AM THE NRA LEGISLATIVE LIAISON FOR THE NORTHWEST REGION AS WELL AS A LIFE MEMBER OF THE NATIONAL RIFLE ASSOCIATION. ON BEHALF OF THE 25,000 NRA MEMBERS IN THE STATE OF MONTANA, I WOULD LIKE TO THANK THE CHAIRMAN AND MEMBERS OF THIS COMMITTEE FOR THE OPPORTUNITY TO SPEAK IN SUPPORT OF SENATE BILL 121, THE FIREARMS DEFECTLESS PRODUCT LIABILITY BILL.

PRODUCT LIABILITY IS AN ISSUE OF GROWING CONCERN IN A NUMBER OF INDUSTRIES AND RECREATIONAL ACTIVITIES. BUT NO AREA IS THREATENED MORE THAN THE OWNERSHIP AND USE OF FIREARMS BY LAW-ABIDING CITIZENS. BECAUSE GUN PROHIBITIONISTS HAVE BEEN LARGELY UNSUCCESSFUL IN THEIR LEGISLATIVE ATTEMPT TO EFFECT GUN CONTROL, THEIR LATEST TACTIC IS TO IMPLEMENT VIRTUAL GUN BANS THROUGH THE COURTS.

IN A NUMBER OF STATES, ANTI-GUN LAWYERS HAVE FILED LAWSUITS AGAINST HANDGUN MANUFACTURERS, ALLEGING THAT HANDGUNS ARE UNREASONABLY DANGEROUS PER SE, AND THAT, AS A CONSEQUENCE, A MANUFACTURER SHOULD BE HELD LIABLE WHEN A HANDGUN IT PRODUCED IS USED IN THE COMMISSION OF A CRIME. ABOUT 25 TO 30 OF THESE CASES HAVE BEEN FILED TO DATE.

THE BASIS FOR THESE "DEFECTLESS PRODUCT" CASES IS AN ASSERTION THAT TRADITIONAL PRODUCT LIABILITY LAW--WHICH ALLOWS SUITS AGAINST FIREARM

MANUFACTURERS OF THOSE INJURED BY FIREARMS WHICH ARE DEFECTIVE IN DESIGN OR MANUFACTURE CAN BE EXTENDED TO INCLUDE THE NOTION THAT A HANDGUN IS DEFECTIVE IN DESIGN SIMPLY BECAUSE IT COULD POTENTIALLY BE USED TO CAUSE INJURY OR DEATH.

TO PROVE THAT THE DESIGN OF A HANDGUN IS THE PROXIMATE CAUSE OF INJURY OR DEATH, PLAINTIFF'S COUNSEL WILL RELY UPON THE TESTIMONY OF CRIMINOLOGISTS AND SOCIOLOGISTS TO PRESENT DATA ON THE NUMBER OF INJURIES AND DEATHS RESULTING FROM THE USE OF HANDGUNS. THIS IS THE SAME DATA THAT GUN CONTROL ADVOCATES USE IN THEIR ATTEMPTS TO CONVINCE LEGISLATURES THAT GUN CONTROL LEGISLATION SHOULD BE ENACTED. IT IS CLEAR THAT THE MOTIVE OF PLAINTIFF'S LAWYERS IN BRINGING "DEFECTLESS PRODUCE" LITIGATION AGAINST HANDGUN MANUFACTURERS IS TO ACHIEVE IN THE COURTS WHAT THEY HAVE FAILED TO ACHIEVE IN THE LEGISLATURES.

THIS OVERT ATTEMPT TO JUDICIALLY "ENACT" GUN CONTROL LEGISLATION CAUSED COURTS TO REGULARLY DISPENSE WITH THE "DEFECTLESS PRODUCT" CASES. ON OCTOBER 3, 1985, HOWEVER, IN THE CASE OF KELLEY V. R. G. INDUSTRIES, THE MARYLAND COURT OF APPEALS RULED THAT LAWSUITS BY CRIME VICTIMS COULD BE BROUGHT AGAINST MANUFACTURERS OF SATURDAY NIGHT SPECIALS. THEIR DECISION WAS BASED UPON THE THEORY THAT HANDGUNS ARE "DEFECTIVE" SINCE THEY ARE PRIMARILY USED TO COMMIT CRIMES AND THAT THE DISTRIBUTION OF HANDGUNS IS AN "ULTRAHAZARDOUS ACTIVITY."

THE KELLEY CASE HAS BEEN APPLAUDED BY ANTI-GUN ORGANIZATION. A SPOKESMAN FOR THE NATIONAL COALITION TO BAN HANDGUNS HAS STATED THAT THEY CAN NOW FIGHT A TWO-FRONT BATTLE IN THEIR ATTEMPT TO BAN HANDGUNS. THEY PREDICT THAT NUMEROUS CASES WILL COME UP ACROSS THE COUNTRY WITH COURTS LOOKING TO THE MARYLAND DECISION FOR DIRECTION.

THE RAMIFICATIONS OF THE KELLEY DECISION HAVE ALREADY BEEN SEEN AS DEFENDENT R. G. INDUSTRIES WAS FORCED TO FILE BANKRUPTCY AND IS NOT OUT OF BUSINESS. IN AN EFFORT TO NIP THIS STRANGE TWIST OF TORT LAW IN THE BUD, AND PROTECT THE FUTURE OF THE SHOOTING SPORTS, THE NATIONAL RIFLE ASSOCIATION WOULD LIKE TO SEE DEFECTLESS PRODUCT LIABILITY LEGISLATION PASSED IN EVERY STATE LEGISLATURE ACROSS THE COUNTRY. MANY STATES HAVE ALREADY ENACTED THESE BILLS, INCLUDING IDAHO, NEVADA, AND CALIFORNIA IS THE WESTERN UNITED STATES.

SENATE BILL 121 WOULD ASSURE THAT NEITHER FIREARMS NOR AMMUNITION COULD BE DEEMED DEFECTIVE IN DESIGN ON THE BASIS THAT THE BENEFITS OF THE PRODUCT DO NOT OUTWEIGH THE POTENTIAL DANGER. SB 121 WILL IN NO WAY, HOWEVER, AFFECT PRODUCT LIABILITY ACTIONS BASED UPON IMPROPER DESIGN, MANUFACTURING DEFECTS, NOR NEGLIGENCE ON THE PART OF THE PROVIDER.

IN CLOSING I WOULD LIKE TO NOTE THAT WE HAVE RECEIVED NUMEROUS LETTERS AND TELEPHONE CALLS FROM OUR MEMBERS IN MONTANA ASKING THAT WE ASSIST IN SECURING PASSAGE OF SB 121.

ON BEHALF OF THE NRA MEMBERS AND GUN OWNERS IN MONTANA, I WOULD LIKE TO THANK THE COMMITTEE FOR THE OPPORTUNITY TO DISCUSS SB 121 WITH YOU TODAY, AND ENCOURAGE YOUR SUPPORT OF THIS IMPORTANT LEGISLATION.

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COMMITTEE

DATE March 18, 1987

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PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

MINUTES OF THE MEETING
JUDICIARY COMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

March 23, 1987

The meeting of the Judiciary Committee was called to order by Chairman Earl Lory on March 23, 1987, at 7:00 a.m. in Room 312 D of the State Capitol.

ROLL CALL: All members were present.

EXECUTIVE SESSION:

ACTION ON SENATE BILL NO. 121:

Rep. Giacometto moved that SB #121, Be Concurred In. Question was called and a voice vote was taken. The motion CARRIED 11-2 with Reps. Cobb and Eudaily dissenting. SB #121 BE CONCURRED IN.

ACTION ON SENATE BILL NO. 139:

Rep. Grady moved that SB #139, Be Concurred In. Rep. Cobb moved the page 3 amendment of the bill. He explained that on page 3, Lines 5-6 and line 13, he is striking "willful or wanton misconduct" and inserting "gross negligence". Rep. Grady questioned Rep. Cobb in regard to this amendment asking him if it lowers the standard. Rep. Cobb pointed out that it is a lower duty and higher responsibility. Rep. Grady asked what the skiers currently have and he stated that responsibility needs to be put on the people. Rep. Giacometto acknowledged that he is against the amendment but pointed out that page two gives the list of everyone working on the trails. Rep. Meyers opposed the amendment. Question was called and a voice vote was taken. The motion CARRIED 3-7. (See Amendment Attached). Mr. McMaster explained that the added language starting on page 5, line 25 and going to page 6, line 9 was brought out by Rep. Mercer at the time of the hearing as being too broad, because it covers all recreational activities, and he said, that since Rep. Mercer is not here at this time, he felt that he should bring it up to the committee. He pointed out that line 2, states "provide recreational opportunities". Rep. Giacometto moved a clean up amendment on page 4, line 22 striking "effective" and inserting "effect of". Question was called and a voice vote was taken. The motion CARRIED unanimously. (See Amendment Attached). Rep. Addy moved an amendment on page 6, line 5, striking "the department,". Question was

STANDING COMMITTEE REPORT

MARCH 23,

19 37

Mr. Speaker: We, the committee on JUDICIARY

report SENATE BILL NO. 121

☐ do pass
☐ do not pass

☒ be concurred in
☐ be not concurred in

☐ as amended
☐ statement of intent attached

Chairman

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REP. GRADY WILL CARRY THE BILL!

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Editor

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DAILY ROLL CALL
JUDICIARY COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date March 23, 1987

NAME	PRESENT	ABSENT	EXCUSED
JOHN MERCER (R)	✓		
LEO GIACOMETTO (R)	✓		
BUDD GOULD (R)	✓		
AL MEYERS (R)	✓		
JOHN COBB (R)	✓		
ED GRADY (R)	✓		
PAUL RAPP-SVRCEK (D)	✓		
VERNON KELLER (R)	✓		
RALPH EUDAILY (R)	✓		
TOM BULGER (D)	✓		
JOAN MILES (D)	✓		
FRITZ DAILY (D)	✓		
TOM HANNAH (R)	✓		
BILL STRIZICH (D)	✓		
PAULA DARKO (D)	✓		
KELLY ADDY (D)	✓		
DAVE BROWN (D)	✓		
EARL LORY (R)	✓		

1 SENATE BILL NO. 121

2 INTRODUCED BY B. BROWN, BISHOP, SWIFT, MEYER, KEATING,
3 BECK, HIMSL, JERGESON, SEVERSON, LYNCH, E. SMITH,
4 YELLOWTAIL, GALT, VAN VALKENBURG, CRIPPEN, AKLESTAD,
5 WALKER, NEUMAN, BLAYLOCK, STORY, BRANDEWIE, THAYER,
6 RASMUSSEN, GILBERT, HARP, GRADY, LYBECK, THOFT, FARRELL,
7 HAGER, HARDING, MENKE, THOMAS, MOORE, MCLANE

8
9 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING CRITERIA
10 DETERMINING WHEN FIREARMS OR AMMUNITION MAY NOT BE
11 CONSIDERED DEFECTIVE IN DESIGN IN PRODUCTS LIABILITY
12 ACTIONS; AND PROVIDING EXCEPTIONS."

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 Section 1. Products liability -- ~~defectiveness~~ DEFECT
16 IN DESIGN of firearms or ammunition. (1) In a products
17 liability action, no firearm or ammunition may be considered
18 defective in design on the basis that the benefits of the
19 product do not outweigh the risk of injury posed by its
20 potential to cause serious injury, damage, or death when
21 discharged.

22 (2) For purposes of this section:

23 (a) the potential of a firearm or ammunition to cause
24 serious injury, damage, or death when discharged does not
25 make the product defective in design; and

1 (b) injuries or damages resulting from the discharge
2 of a firearm or ammunition are not proximately caused by its
3 potential to cause serious injury, damage, or death but are
4 proximately caused by the actual discharge of the product.

5 (3) The provisions of this section do not affect a
6 products liability cause of action based upon the improper
7 selection of design alternatives.

-End-

